

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

May 23, 2008

No. 07-30600
Summary Calendar

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

ANTHONY J GOBERT,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 2:06-CR-20001-ALL

Before WIENER, GARZA, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Anthony J. Gobert has appealed his jury conviction of being a felon in possession of a firearm. He contends that the evidence introduced to prove his guilt was insufficient. We review this question for a manifest miscarriage of justice because Gobert failed to renew his motion for judgment of acquittal at the close of all the evidence. See *United States v. Avants*, 367 F.3d 433, 449 (5th Cir. 2004). Under that standard, Gobert must show that the record is "devoid of

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

evidence of guilt” or that the evidence is “so tenuous that a conviction is shocking.” *Avants*, 367 F.3d at 449.

Gobert contends only that the Government failed to prove that he was in possession of a firearm. See *United States v. Guidry*, 406 F.3d 314, 318 (5th Cir. 2005) (listing elements of offense); 18 U.S.C. § 922(g)(1). Gobert was observed by an acquaintance in possession of a firearm. Accordingly, there was direct evidence that Gobert possessed a firearm and the record was not “devoid of evidence” as to that element of the offense. See *Avants*, 367 F.3d at 449; *United States v. Munoz*, 150 F.3d 401, 416 (5th Cir. 1998). The conviction is

AFFIRMED.